IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

WP(C).No. 1797 of 2004(L)

AGAINST THE ORDER DATED 5/12/2003 IN EP.29/2002 OS.114/1999 IN of SUB COURT,NEYYATTINKARA

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PETITIONER:

NELSON, AGED 41, S/O.ENOSE NADAR,
THONIKADAPRA PUTHEN VEEDU,
OLATHANNI KADAVATTARAM, NEYYATTINKARA VILLAGE.

BY ADV. SRI.R.T.PRADEEP

RESPONDENT:

SATHYAN, S/O.CHELLAKUTTAN, S.N.NIVAS, MALIRUMBIL DESOM,
NEYYATTINKARA VILLAGE.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.1797/04

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF EP.29/02 IN O.S.114/99 DT.1.4.02 BEFORE SUB COURT, NEYYATTINKARA.

EXT.P2 – TRUE COPY OF ORDER DT.5.12.03 IN EP.29/02 IN O.S.114/99 OF DO.

EXT.P3 – TRUE COPY OF SALE PROCLAMATION DT.3.1.04.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.1797 OF 2004

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DATED THIS THE 13TH JUNE, 2007

J U D G M E N T

This Writ Petition is remaining defective on the reason that the respondent-decree-holder has not been served. But I have reason to assume that the respondent-decree-holder is having information regarding the pendency of this Writ Petition through the stay order which was produced before the court below.

2. This Court became inclined to grant stay only on condition that amounts are paid by the petitioner towards the decree-debt. Mr.R.T.Pradeep, counsel for the petitioner submits that if proper credit is given to all the payments made by the petitioner including the payments made pursuant to the interim orders of this Court, it will be seen that almost the entire E.P. claim is discharged.

3. Whatever that be, I do not find any infirmity about the order of the execution court directing sale so as to warrant invocation of the supervisory jurisdiction of this Court under Article 227. However, considering the fact that the petitioner is making earnest endeavours to pay off the decree-debt, the Writ Petition will stand disposed of directing that the order of stay presently passed will continue for another six months from today. It is open to the petitioner to pay off

the balance, if any, to the decree-holder either in a lump or in equal monthly instalments.

(PIUS C.KURIAKOSE, JUDGE)

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